

REMARKS

This responds to the Office Action dated May 4, 2005. Claims 55 and 78 are amended. No claims are canceled or added. Claims 42-46, 51-56, 59-60, 62, and 64-79 remain pending in this patent application.

Objection to the Claims

Claim 78 is objected to under 37 C.F.R. 1.175 as being substantial duplicate of claim 55. Applicant has amended claim 78 such that it is no longer a substantial duplicate of claim 55, and to more particularly point out and distinctly claim certain subject matter. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection to claim 78.

§102 Rejection of the Claims

Claims 55, 78 and 79 were rejected under 35 U.S.C. § 102(b) for anticipation by Duffin, Jr. (U.S. Patent No. 5,243,978). Applicant has amended claims 55 and 78 to overcome this rejection. Applicant cannot find any disclosure in the cited portions of Duffin, Jr. of delivering a pacing level pulse from a first intravascular ventricular defibrillation electrode as a cathode to a first intravascular ventricular pacing/sensing electrode as an anode, as presently recited in claim 55, or of delivering a pacing level pulse from a first intravascular ventricular defibrillation electrode as a cathode to a first ventricular pacing/sensing electrode as an anode, as presently recited or incorporated in claims 78 – 79. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this basis of rejection of these claims.

Claims 69 and 76 were rejected under 35 U.S.C. § 102(e) as being anticipated by Smits (U.S. Patent No. 6,556,873). Applicant notes that this rejection is made solely under 35 U.S.C. § 102(e) and, accordingly, can be overcome by swearing behind Smits as provided for in 37 C.F.R. § 1.131. Applicant will consider swearing behind Smits to resolve this outstanding rejection to claims 69 and 76 when all other claims have been indicated to be allowable. Accordingly, Applicant respectfully requests that this rejection be held in abeyance until the other outstanding rejections are resolved.

Allowable Subject Matter

Applicant gratefully acknowledges the allowance of claims 42-46, 51-54, 59-60, 62, 64-68 and 71-75.

Claims 56, 70 and 77 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Nonetheless, for the reasons discussed above, Applicant believes these claims are allowable in their present form. Accordingly, Applicant respectfully requests reconsideration and allowance of these claims.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6951 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

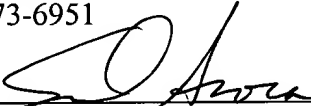
Respectfully submitted,

JEFFREY E. STAHMANN ET AL.

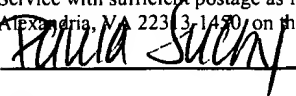
By their Representatives,


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Date August 3, 2005

By 
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 3 day of August, 2005.


Name


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